

## Message Text

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61

ORIGIN EB-07

INFO OCT-01 ARA-10 EUR-12 IO-11 ISO-00 SSO-00 NSCE-00

USIE-00 INRE-00 AGR-10 CEA-01 CIAE-00 COME-00 DODE-00

FRB-01 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05

PA-02 AID-05 CIEP-02 SS-15 STR-04 TAR-01 TRSE-00

PRS-01 SP-02 OMB-01 FEA-01 /113 R

DRAFTED BY EB/OT/GCP:MHGOLDMAN:DI

APPROVED BY EB/OT/GCP:HCBLACK

L/ARA:DGANTZ

US/OAS:ANOONAN

ARA/ECP:MDAVILA

IO/CMD:EBRUCE

L/EB: CROH

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O R 132232Z JAN 76

FM SECSTATE WASHDC

TO USMISSION GENEVA IMMEDIATE

INFO AMEMBASSY CARACAS

AMEMBASSY MEXICO

AMEMBASSY QUITO

USMISSION EC BRUSSELS

USMISSION USUN NEW YORK

USDEL MTN GENEVA

UNCLAS STATE 008354

E.O. 11652: N/A

TAGS: UNCTAD, ETRD

SUBJECT: GSP AND OAS CHARTER

REF: GENEVA 0083

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1. FOLLOWING IS GUIDANCE FOR USE AS DEEMED APPROPRIATE

BY USREP UNCTAD COMMITTEE ON PREFERENCES IN RESPONSE TO  
VENEZUELAN ALLEGATIONS THAT US GSP SCHEME VIOLATES  
ARTICLES 19, 34, AND 37 OF OAS CHARTER.

2. WHILE THE EXECUTIVE BRANCH OF THE USG CONTINUES TO SUPPORT AMENDATORY LEGISLATION REGARDING CONDITIONS FOR THE EXTENSION OF PREFERENCES TO OPEC COUNTRIES, THE USG CANNOT ACCEPT THE CONTENTION THAT THIS OR OTHER CONDITIONS PLACED ON THE ELIGIBILITY OF COUNTRIES FOR PREFERENCES ARE IN VIOLATION OF US OBLIGATIONS UNDER THE OAS CHARTER AS ALLEGED BY THE REP OF THE GOV.

3. THE EXTENSION OF TRADE PREFERENCES IS VOLUNTARY AND NON-BINDING, LIKE ASSISTANCE BETWEEN NATIONS. WE DO NOT BELIEVE THAT THE FAILURE TO GRANT TRADE PREFERENCES, IRRESPECTIVE OF ANY OTHER CONSIDERATION, CONSTITUTES COERCION UNDER THE OAS CHARTER. IT WILL BE RECALLED THAT

IN THE GATT WAIVER AUTHORIZING A GSP, THE US AND THE OTHER DEVELOPED COUNTRIES AGREED THAT GENERALIZED TARIFF PREFERENCES WERE VOLUNTARY ON THE PART OF ANY COUNTRY GRANTING THEM AND DID NOT CONSTITUTE A BINDING COMMITMENT. IN OUR VIEW, NO COUNTRY, WHETHER A GATT CONTRACTING PARTY OR NOT, HAS A RIGHT UNDER INTERNATIONAL LAW TO BE AWARDED GENERALIZED PREFERENCES. WE DO NOT INTERPRET ARTICLE 19 OF THE OAS CHARTER AS DENYING THE SOVEREIGN RIGHT OF THE GOVERNMENT OF THE US, THROUGH ITS CONSTITUTED CONGRESSIONAL AND EXECUTIVE AUTHORITIES, TO ESTABLISH CRITERIA FOR PREFERENTIAL ACCESS TO US MARKETS. WE OF COURSE WOULD NOT CONTEST A COUNTRY'S RIGHT TO REFUSE TO ACCEPT GSP BUT WOULD NATURALLY ALSO RESERVE THE RIGHT AS TO ITS IMPLEMENTATION WITH REGARD TO OTHER COUNTRIES IN CONFORMITY WITH OUR LEGISLATION.

4. WITH RESPECT TO ARTICLES 34 AND 37 OF THE OAS CHARTER, THE US OBSERVES THAT THESE AND OTHER PROVISIONS ENVISION A SPIRIT OF COOPERATION AND MUTUALITY (ALTHOUGH NOT RECIPROCITY) IN SEEKING TO ACHIEVE COMMON ECONOMIC GOALS. IN FACT, THE THRUST OF THE TRADE ACT IS UNCLASSIFIED

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FULLY CONSISTENT WITH THE OBJECTIVES OF ARTICLES 37(A) AND 38. THE US BELIEVES THAT THESE ARTICLES AS WELL AS ALL OTHER ARTICLES OF THE OAS CHARTER MUST BE OBSERVED BY ALL MEMBER COUNTRIES, NOT SIMPLY BY THE US.

5. WE NOTE THAT THIS SPIRIT OF MUTUALITY AND COOPERATION IS EXPLICITLY REFERRED TO IN ARTICLE 32. ARTICLE 34 CALLS UPON THE MEMBER STATES TO "MAKE EVERY EFFORT TO

AVOID POLICIES, ACTIONS OR MEASURES THAT HAVE SERIOUS  
ADVERSE EFFECTS ON THE ECONOMIC OR SOCIAL DEVELOPMENT  
OF THE MEMBER COUNTRIES." ARTICLE 37 PROVIDES IN PART  
THAT THE MEMBER STATES "SHOULD MAKE INDIVIDUAL AND  
UNITED EFFORTS TO BRING ABOUT... MAINTENANCE OF  
CONTINUITY IN THEIR ECONOMIC AND SOCIAL DEVELOPMENT BY  
MEANS OF... ADEQUATE AND DEPENDABLE SUPPLIES FOR  
CONSUMERS, AND STABLE PRICES WHICH ARE BOTH REMUNERATIVE  
TO PRODUCERS AND FAIR TO CONSUMERS." WE BELIEVE THAT  
WE HAVE A RIGHT TO EXPECT FAIR AND EQUITABLE TREATMENT  
FROM RECIPIENT COUNTRIES, CONSISTENT WITH THE SPIRIT OF  
MUTUALITY AND COOPERATION REFLECTED IN THE OAS CHARTER.  
IT IS THE BELIEF OF THE US THAT NO COUNTRY THAT IS  
COMPLYING FULLY WITH THE LETTER AND SPIRIT OF ITS  
COMMITMENTS UNDER CHAPTER VII OF THE OAS CHARTER WOULD  
BE INELIGIBLE FOR GSP UNDER SECTION 502 OF THE TRADE  
ACT. KISSINGER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LESS DEVELOPED COUNTRIES, COMMITTEE MEETINGS, RESOLUTIONS, GENERALIZED PREFERENCES (TARIFFS), FOREIGN POLICY POSITION  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 13 JAN 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 JAN 1960  
**Disposition Event:**  
**Disposition History:** n/a  
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**Drafter:** MHGOLDMAN:DI  
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**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ORIGIN EB  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Previous Classification:** n/a  
**Previous Handling Restrictions:** n/a  
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**Review Date:** 19 JUL 2004  
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